

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
and
The Hon'ble Justice Bibhas Ranjan De**

C.R.M. (NDPS) 46 of 2022

**Ansar Ali Piyada
Vs.
The State of West Bengal**

For the petitioner : Mr. Angshuman Chakraborty

For the State : Mr. Sanjoy Bardhan
Mr. Nirupam Dhali

Heard on : 05.04.2022

Judgement on : 05.04.2022

Debangsu Basak, J.:

Petitioner seeks bail on the ground of default in filing charge-sheet within time prescribed under Section 36A(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Learned Advocate appearing for the petitioner submits that the petitioner was arrested on June 30, 2021. The petitioner was produced before the jurisdictional Court on July 1, 2021. According to him, 180 days from the date of the arrest expired on December 26, 2021. The application for extension of time to submit the charge-sheet was filed on

December 23, 2021. The petitioner applied for bail on January 3, 2022. The Court considered the application for extension of time to submit the charge-sheet filed on behalf of the prosecution on December 23, 2021 along with the application for bail filed on January 3, 2022 and disposed both of them by a common order dated January 5, 2022. The Court extended the time for filing the charge-sheet. The prayer for bail was rejected. He refers to the judgment 2009 (17) SCC 631 (Sanjay Kumar Kedia @ Sajay Kedia vs. Intelligence Officer, Narcotic Control Bureau and Anr.) and submits that the jurisdictional Court failed to take into account the four parameters laid down therein and proceeded to pass the order of extension mechanically. The petitioner is, therefore, entitled to default bail.

Learned Advocate appearing for the State submits that the commercial quantity of narcotic was seized from the joint possession of the petitioner. He relies upon (2021) 2 SCC 485 (*M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence*) and submits that once the time for filing the charge-sheet is extended, the right of default bail stands extinguished.

In the facts of the present case, commercial quantity of narcotic was seized from the joint possession of the petitioner. Therefore, the petitioner is otherwise unable to rebut the presumptions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

However, the petitioner seeks default bail.

The petitioner was arrested on June 30, 2021. He was produced before the jurisdictional Court on July 1, 2021. Therefore, 180 days from the date of his production before the jurisdictional Court expired on December 27, 2021. An application for extension of time to file charge-sheet in terms of Section 36A(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985 was filed on December 23, 2021. Such application was not disposed of. In the interregnum, the petitioner filed an application for bail on January 3, 2022.

The Court dealt with the application for extension dated December 23, 2021 and the application for bail dated January 3, 2022 and disposed both of them on January 5, 2022. The Court allowed the prayer for extension and thereafter proceeded to reject the prayer for bail.

The order of extension of time to file the charge-sheet is not under challenge at the behest of the petitioner.

As a Court considering an application for bail we cannot be invited to pronounce upon the legality or validity of the order extending the time for filing the charge-sheet.

Sanjay Kumar Kedia @ Sanjay Kedia (Supra) is an authority for the proposition as to the parameters which a Court should take into consideration for extending the time to file the charge-sheet in terms of Section 36A(4) of the Act, 1985.

M. Ravindram (Supra) is more apposite to the facts of the present case. M. Ravindram (Supra) recognizes the fact that once an application for bail is filed and that there is an application for extension of time to file the charge-sheet, the Court should endeavor to dispose of both of them. In the event the Court is pleased to allow the time for extension, then the right for default bail will stand extinguished.

In the facts of the present case, the application for extension was filed within time and much prior to the application for default bail.

The Court considered both the applications for extension of time as also for default bail and disposed of the same on January 5, 2022. As noted above, the Court extended the time to file the charge-sheet. Therefore, the petitioner lost the right to obtain default bail exercised by the application dated January 3, 2022.

In such circumstances, we are unable to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

C.R.M. (NDPS) 46 of 2022 is dismissed.

(Debangsu Basak, J.)

I agree

(Bibhas Ranjan De, J.)